

ESTTA Tracking number: **ESTTA462429**Filing date: **03/19/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	iShow.com, Inc.
Granted to Date of previous extension	03/17/2012
Address	2800 156th Ave., Ste. 120 Bellevue, WA 98007 UNITED STATES
Attorney information	Loren G. Helmreich Streets & Steele 13100 Wortham Center Dr., Ste. 245 Houston, TX 77065 UNITED STATES lhelmreich@patent-law.cc

Applicant Information

Application No	85399094	Publication date	01/17/2012
Opposition Filing Date	03/19/2012	Opposition Period Ends	03/17/2012
Applicant	Lennar Pacific Properties Management, Inc. 700 N.W. 107th Avenue Miami, FL 33172 UNITED STATES		

Goods/Services Affected by Opposition


Class 036. Opposed goods and services in the class: consultation in the field of real estate management; real estate management services of residential communities, undeveloped properties and individual residences
Class 037. All goods and services in the class are opposed, namely: real estate development and planning services, namely, developing, laying out and constructing residential communities and individual residences

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	3385426	Application Date	02/10/2006
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No.			
Registration Date	02/19/2008	Foreign Priority Date	NONE
Word Mark	NEXTGEN HOME EXPERIENCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/05/31 First Use In Commerce: 2005/05/31 Product demonstration for the residential construction and consumer electronics industries		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	NEXTGEN		
Goods/Services	SEE OPPOSITION		

Attachments	78812092#TMSN.jpeg (1 page)(bytes) Signed Notice of Opposition.pdf (3 pages)(230580 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/Loren G. Helmreich/
Name	Loren G. Helmreich
Date	03/19/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85/399,094

For the mark: NEXT GEN

Published in the Official Gazette on January 17, 2012

iShow.com, Inc.

v.

Lennar Pacific Properties Management, Inc.

NOTICE OF OPPOSITION

iShow.com, Inc., Bellevue, WA, a corporation of the State of Washington
2800 156th Ave SE, Suite 120, Bellevue, WA 98007

The above-identified opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is the owner of Federal Registration No. 3,385,426 for NEXTGEN HOME EXPERIENCE.
2. Opposer is the owner of Nevada Registration No. SM00360444 for the mark NEXTGEN.
3. Opposer claims common law rights to the mark NEXTGEN for the following services:

Consultation in the field of real estate management; real estate management services of residential communities, undeveloped properties and individual residences;

Real estate development and planning services; laying out and constructing residential communities and individual residences;

Promotion of residential developments;

Sale of homes;


Promotion of floor plans; and

Services of demonstrating home features.

4. Applicant has also used the mark NEXTGEN as a trade name and a business name.
5. The grounds for opposition include priority and likelihood of confusion under Section 2(d), and fraud under established case law. Opposer is in substantially the same business as Applicant, uses the same or substantially the same mark, and confusion is likely. Opposer has senior rights to the NEXTGEN mark in advertising its services and promoting its trade name. The NEXTGEN mark is distinctive of Opposer's services.
6. The opposition based on fraud arises from Applicant being aware of Opposer and its services when it filed this application. Opposer was a prior user of the NEXTGEN mark for the same or related services, and Applicant knew of Opposer's rights when it filed the application. Applicant failed to disclose the above facts to the Trademark Office, and intended to pursue a registration to which Applicant was not entitled.
7. Opposer's registered mark is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use this mark in commerce for the services specified in the registration. In view of the similarity of the respective marks and the related nature of the services of the parties, it is alleged that Applicant's mark so resembles Opposer's registered mark as to likely to cause confusion or to cause a mistake, or to deceive.
8. Opposer's use of the NEXTGEN trade name has been valid and continuous since before the date of first use by Applicant, and has not been abandoned. Opposer has also used the NEXTGEN mark and similar marks and has common law rights to such marks before the date of first use by Applicant, and those rights also have not been abandoned. The trade name rights and the common law right of Opposer are symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promoting its services. In view of the similarities of the respective marks and the related nature of the services, it is alleged that Applicant's mark so resembles Opposer's trade name and common law rights as to likely cause confusion, or to cause a mistake, or to deceive.

WHEREFORE, Opposer prays that Application Serial No. 85/399,094 be rejected, and that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer hereby appoints the law firm of Streets & Steele and the following individuals, Loren G. Helmreich, Jeffrey L. Streets, and Patrick K. Steele, all members of the Bar of the State of Texas, to act as attorneys for Opposer, power to prosecute the opposition and to transact all relevant business with the Trademark Office, and to receive official communication in connection with this opposition.

By: 
Paul Barnett

Date 3/15/2012.

Title: President, iShow.com, Inc.